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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/008,407	11/13/2001	Melvin A. Zehr	DIAZ113	2967	
21658 7	7590 09/16/2003				
•	DYKAS, SHAVER & NIPPER, LLP			EXAMINER	
P O BOX 877 BOISE, ID 83701-0877			ROSENBAUM, MARK		
			ART UNIT	PAPER NUMBER	
			3725	\sim	
			DATE MAILED: 09/16/2003	Y	

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Applicant(s) T			γ k				
## Examiner Art Unit 3725 ## ARKILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. ■ Editorishing to them may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a raply be timely filled ■ the period for reply specified above, the maintern of 37 CFR 1.136(a). In no event, however, may a raply be timely filled ■ the period for reply specified above, the maintern statistics period will apply and will expire SX (0) MoNTH's from the mailing date of this communication of this post of the period of the period for reply specified above, the maintern statistics period will apply and will expire SX (0) MoNTH's from the mailing date of this communication of this post of the period for reply specified above, the maintern statistics period will apply and vill expire SX (0) MoNTH's from the mailing date of this communication. Part of the period for reply specified above, the maintern statistics period will apply and vill expire SX (0) MoNTH's from the mailing date of this communication. Part of the period		Application No.	Applicant(s)				
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2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-8 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are rejected to. 8) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a accepted or b objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) proved b disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s) 10 Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.	THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.1: after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply If NO period for reply is specified above, the maximum statutory period verified to reply within the set or extended period for reply will, by statute. - Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply be ti y within the statutory minimum of thirty (30) da vill apply and will expire SIX (6) MONTHS fron , cause the application to become ABANDONE	mely filed ys will be considered timely. the mailing date of this communication. ED (35 U.S.C. § 133).				
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DETAILED ACTION

Allowable Subject Matter

Claims 1-6,8 are allowed.

Claim Rejections - 35 USC § 112

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It still is not clear what is being positively claimed in this claim.

Claim Rejections - 35 USC § 102

Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Pearce,

Tamura et al, or Bladykas. See paper number 5 for this rejection.

Response to Arguments

Applicant's arguments filed 7/28/03 have been fully considered but they are not persuasive. The 35 USC 112 rejection remains appropriate because of the claim format. The preamble of the claim is 'A loading assistance device...., said loading assistance device comprising'. By using this format, the apparatus prior to the comprising clause is not being positively claimed i.e. the grinding chamber is not being claimed. And if the chamber is not being claimed, how can the smaller end of the device extend through it as set forth in lines 7-8? With the chamber not being positively claimed, the 35 USC 102 rejection also remains proper since all of the references use stationary,

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frustoconical hoppers. The fact that the prior art chambers do not rotate is irrelevant since applicant is not claiming the chamber.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Rosenbaum whose telephone number is 703-308-1788. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alan Ostrager can be reached on 703-308-3136. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

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Mark Rosenbaum Primary Examiner Art Unit 3725

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